

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

VERONICA ROBLEDO, individually and on  
behalf of all others similarly situated,

Plaintiffs,

- against -

NO. 9 PARFUME LEASEHOLD and  
LAURICE RAHME, individually,

Defendants.

**DECLARATION OF  
BENITO RAMIREZ**

No. 12 Civ. 3579 (RLC)(DF)

STATE OF NEW YORK       )  
                                      : ss.:  
COUNTY OF NEW YORK    )

BENITO RAMIREZ hereby declares under penalty of perjury as follows:

1. I was employed by Laurice & Bleecker Corp. as a Sales Associate working principally in a retail store located on Bleecker Street in New York, New York (the "Bleecker Street" store) that sells fragrances under the brand name Bond No. 9. I make this affidavit in opposition to plaintiffs' motion for conditional certification of a collective action on my own personal knowledge, except as to matters stated to be on information and belief and as to such matters I believe it to be true.

2. I started working as a Sales Associate in the Bleecker Street store in April 2011, and worked there until I resigned in May 2012. In July 2013 I was re-hired as a Sales Associate to work in the related store located at 9 Bond Street (the "Bond Street" store), where I worked until September 2013. Since September I have worked two days

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per week at the Bleecker Street store and three days per week at the Bond Street store. All of my employment in these stores has been on a full-time basis.

3. Generally, there are only two employees in the Bleecker Street store at any given time – a Manager and one Sales Associate. Sometimes there is only one employee at that store, and occasionally there are three.

#### **Lunch Breaks**

4. Sales Associates at the Bleecker Street store, as well as the Manager, are entitled, and required, to take a lunch break of a full hour each day. This has been my experience at the Bond Street store, as well.

5. I have never been required to work through a lunch break. I do not recall that I ever worked through a lunch break, but I do know that there were a few occasions when I chose to work through the beginning of a lunch break at the Bleecker Street store. When that happened, I adjusted my lunch break so that it ended later, with the result that I got my entire lunch break. If the other person in the store were taking a lunch break after mine, he or she would start a little later, so that our lunch breaks would not overlap.

6. I am aware Sales Associates are not paid for our lunch break time, and I believe that all of the Sales Associates are aware of this, so we are sure always to take our full lunch break.

7. I have never heard another Sales Associate in the Bleecker Street store, nor anyone at the Bond Street store or any of the other stores affiliated with them, say that he or she had been required to work through a lunch break.

8. When there is only one person in the store, we are required to close the store for an hour when it is time for our lunch break. I know of no occasions when I or someone else has been the only person on duty when the store was not closed for the full lunch hour.

**Off-the-Clock Work Before or After the Store Opens and Closes**

9. Ordinarily, the Bleeker Street store is open 8 hours per day, although it is usually open for fewer hours on Sundays, and it is often open for 9 hours a day during the holiday season at the end of the year, but never more than 9 hours. Ordinarily, everyone who works there is scheduled for an 8-hour shift. We are expected to start work when the store opens, take a one-hour lunch break, and stop work when it closes. This is true when the store is open for 9 hours, as well as 8 hours. We are required to call in to report the time we start working in the morning, as well as the time when we stop working at the end of the day. I am aware that an hour is deducted from the total amount of time between call-in and call-out for our lunch breaks. Since I returned to work for the Bond No. 9 stores, we have been required to call in at the beginning and end of our lunch breaks, as well.

10. Sometimes a Sales Associate or the Manager arrives early at the Bleeker Street store in the morning, before the store is scheduled to open, and generally the person who opens the store (usually the Manager) arrives a few minutes before the store's scheduled opening time, rarely more than 5 or 10 minutes early. However, no one is required to do, or does, any work in the store until it opens because there is nothing that has to be done. Everything that needs to be done to get the store ready at the beginning of the day is done the day before, prior to closing. So when someone

arrives early, he or she usually spends the time drinking coffee, socializing, or attending to personal grooming or similar matters. This has been true at the Bond Street store since I started working there this year, as well.

11. There are an number of store maintenance chores that have to be done on a daily basis, such as restocking inventory, taking care of inventory, clienteling duties, and making sure the store is clean. These chores are scheduled to be done, and are done, during regular store hours when customer traffic is slow. They are not done before the store opens, and they are not done after the store closes. This has been true at the Bleecker Street at all times I worked there, and since I have been working at the Bond Street store this year.

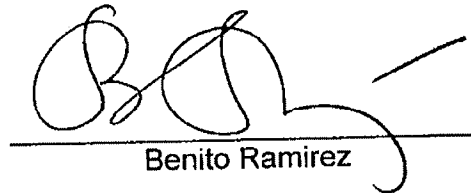
12. At the end of the day, when the store closes and the door is locked, the person who locks the door turns the alarm system on. The system becomes active 60 seconds later, and the doors cannot be opened again without triggering the alarm. If the system is not turned on within a certain period of time after the store is scheduled to close (I am not sure how long that period is), the alarm company calls the store to make sure everything is all right. This has been true at the Bleecker Street at all times I worked there, and since I have been working at the Bond Street store this year.

13. For this reason, I believe it is fair to say that generally, no one works after the store is scheduled to close, and certainly not after the door is locked.

14. Sometimes, on the rare occasion when a customer transaction is not done before closing time, we will keep the store open until the transaction is done. However, this does not result in a delay of more than 5 minutes except on the rarest of occasions.

15. When there is work to be done in the store after the store closes, such as maintenance work by outsiders, the alarm company is notified in advance, and if the Manager or a Sales Associate stays in the store to oversee the work, it is always with advance approval, and she is supposed to be paid for the extra time, which is recorded when she calls out at the end of the night when the work is finished.

Dated: October 14, 2013



Benito Ramirez